

City Council Meeting Minutes

**September 3, 2019
City Hall, Council Chambers
749 Main Street
7:00 PM**

Call to Order – Mayor Muckle called the meeting to order at 7:00 p.m.

Roll Call was taken and the following members were present:

City Council: ***Mayor Robert Muckle
Mayor Pro Tem Jeff Lipton
Councilmember Jay Keany
Councilmember Chris Leh (arrived 7:02 pm)
Councilmember Susan Loo
Councilmember Dennis Maloney
Councilmember Ashley Stolzmann***

Staff Present: ***Heather Balser, City Manager
Megan Davis, Deputy City Manager
Kevin Watson, Finance Director
Rob Zuccaro, Planning & Building Safety Director
Lisa Ritchie, Senior Planner
Meredyth Muth, City Clerk***

Others Present: ***Kathleen Kelly, City Attorney***

PLEDGE OF ALLEGIANCE

All rose for the pledge of allegiance.

APPROVAL OF AGENDA

Mayor Muckle moved to reverse items 8a and 8b on the agenda; Councilmember Loo seconded the motion. Voice vote: all in favor.

PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA

None.

APPROVAL OF THE CONSENT AGENDA

MOTION: Mayor Muckle moved to approve the consent agenda, seconded by Councilmember Maloney. All in favor.

- A. Approval of Bills**
- B. Approval of Minutes: August 20, 2019**
- C. Approval of City Council Special Meetings on September 10 and September 24**
- D. Approval of Resolution No. 28, Series 2019 – A Resolution Approving the Eighth Amendment to the Intergovernmental Agreement for Collection of County Use Tax Between Boulder County and the City of Louisville**

COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA

Mayor Muckle thanked everyone for a great Labor Day Parade.

CITY MANAGER'S REPORT

City Manager Balser thanked the citizens and staff for a successful Labor Day event.

REGULAR BUSINESS

ORDINANCE NO. 1781, SERIES 2019 – AN ORDINANCE AMENDING THE CENTENNIAL VALLEY GENERAL DEVELOPMENT PLAN (GDP) CONCERNING ALLOWED USES, HEIGHTS, DENSITIES, AND OTHER DEVELOPMENT PROVISIONS FOR LOTS 2 AND 3, CENTENNIAL VALLEY PARCEL O, 7TH FILING – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 8/25/19)

City Attorney Kelly introduced the item by title. Mayor Muckle stated Director Zuccaro had an update for tonight. Director Zuccaro stated both property owners were in contact with staff today and have asked Council table the ordinance. Many conditions have changed since this process started and those property owners would like to continue discussions with staff to determine how to move the process forward.

Mayor Muckle moved to table Ordinance 1781, Series 2019 Mayor Pro Tem Lipton seconded the motion.

Councilmember Stolzmann stated she would like to hear from the public in attendance. Mayor Muckle noted if Council votes to table this, it will not go forward as is. Councilmember Stolzmann agreed, but wanted to give people a chance to speak.

Vote on motion to table.

Vote: Motion carried by unanimous roll call vote.

Director Zuccaro noted this could come back at a future quasi-judicial hearing and Council should be thoughtful about taking comment outside of a quasi-judicial hearing. City Attorney Kelly added that with it being tabled, comments taken tonight would be similar to those taken during a pre-application period. Mayor Pro Tem Lipton stated he did not want to do anything that might be prejudicial later on.

Members discussed the various options related to an application that is still quasi-judicial and whether tabling it removed it from that process.

Councilmember Maloney stated comments tonight may be speculative about something that might happen and added this item could come back to a different council. Councilmember Loo and Councilmember Keany agreed.

A majority agreed to not take comments.

Mayor Muckle stated with tabling the item there is no set time for any further discussion or consideration. If any new proposal and ordinance come to Council it would all be done with proper notice again.

Councilmember Leh stated he understands people may be frustrated with this direction, but taking comments now would be taking comments on a proposal that no longer exists.

Councilmember Stolzmann stated public notices had been made that there would be comments tonight, so she understands how people are frustrated. She noted the City is both the applicant and the decision maker here, so she would prefer comments, but understands why that is not being done. She encouraged people to send comments to Council if they would like to get comments to Council.

Director Zuccaro stated that by tabling the ordinance it is still active so all comments would still need to be limited to a public hearing.

Councilmember Loo asked about the advantages and disadvantages of withdrawing the application.

Director Zuccaro stated withdrawal would clarify the application was closed and the quasi-judicial process is done.

City Attorney Kelly stated her understanding was the application was not moving forward in its current form. If that is not the intent, the quasi-judicial status would remain in effect as long as there was an active planning case.

MOTION: Mayor Muckle stated his intent was to end this planning process for this application. He moved to withdraw the application. Councilmember Keany seconded the motion.

Roll call Vote: 6-1, Councilmember Loo voting no.

RESOLUTION NO. 29, SERIES 2019 – A RESOLUTION APPROVING A FINAL PLANNED UNIT DEVELOPMENT TO ALLOW CONSTRUCTION OF A 23,000 SQUARE FOOT STRUCTURE AND ASSOCIATED SITE IMPROVEMENTS AND APPROVAL OF A SPECIAL REVIEW USE TO ALLOW USE GROUP 59: HEALTH OR ATHLETIC CLUB ON LOT 3, BLOCK 5, COLORADO TECHNOLOGICAL CENTER FILING 1 AT 1776 BOXELDER STREET

Mayor Muckle introduced the item and opened the public hearing.

Planner Ritchie stated this is a request for a Planned Unit Development (PUD) to allow the construction of a 23,000 sf structure and associated site improvements and a Special Review Use (SRU) to allow Use Group 59: Health or Athletic Club. The building is to be a volleyball facility. She reviewed the property and site plan which includes underground detention.

She stated the application does not include any waivers and meets all provisions in the IDDSG. Parking is adequate to operate as a training facility, but may not be able to accommodate events. The owner is pursuing conversations with neighboring properties to secure an agreement for those uses. She stated the PUD includes a note regarding how parking requirements will be met if changes are made to the property.

Staff recommends approval of Resolution No. 29, Series 2019.

Councilmember Stolzmann asked if the underground detention reaches capacity where does it overflow. Ritchie stated it outfalls ultimately into a storm pipe at the rear of the property. Councilmember Stolzmann asked if overflow would be on this property or neighboring. Ritchie stated it is likely the structure itself would fill up. It is designed to meet all of the minimum drainage requirements. The applicant understands it will require more maintenance

Public Comments – None.

Motion: Mayor Pro Tem Lipton moved to approve Resolution No. 29, Series 2019; Councilmember Keany second.

Councilmember Stolzmann stated she is in favor of this but she noted this is an industrial park and many industrial chemicals are being used. From time to time she hears from folks who feel this type of use is not compatible with the surrounding area. She feels it is a

compatible use but people need to realize this is an industrial park. This is a secondary use in the area, not the primary use.

Mayor Muckle closed the public hearing.

Voice Vote: All in favor.

**ORDINANCE NO. 1779, SERIES 2019 – AN ORDINANCE ADOPTING A NEW SIGN CODE FOR THE CITY OF LOUISVILLE – 2ND READING, PUBLIC HEARING
(advertised *Daily Camera* 7/28/19)**

City Attorney Kelly introduced the ordinance by title. Mayor Muckle opened the public hearing.

Planner Ritchie stated this is consideration of a complete new sign code. The current sign code regulations live in five different documents and it is confusing for people. This consolidates them into one document. This also addresses issues from a recent Supreme Court ruling. The City is only allowed to regulate time, place and manner, not content.

The proposed code should also reduce the number of similar waivers being requested.

She reviewed the public input and feedback they have taken over the previous year. In general, this is what they have heard:

- Moderately larger and more flexible allowances
- High quality signage is important
- Location and context of the property is an important consideration
- Murals and sandwich boards outside of downtown
- Low interest for electronic message centers.

Section 1 of the draft sign code contains General Provisions:

- Stated intent for consistency with the 1st amendment guarantee of free speech
- Additional discussion related to prevention of sign clutter
- Nonconforming sign and enforcement regulations
- The following prohibited signs were added:
 - Teardrop banner, inflatable signs, additional clarification on other types.
- Provisions to allow a property owner to install signs under the new Sign Code rather than what was approved on a PUD, provided all signs come into conformance with the new Sign Code, including those on a multi-tenant or multi-property PUD

Section 2 addresses Approval Procedure:

- Requirements to obtain a sign permit
- Exemptions from sign permit
- Provisions for administrative approval of minor modifications of up to 10%
- Additional clarification and process for Iconic and Landmark signs

New PUD waiver criteria for signs

Section 3 contains General Regulations:

Residential Areas

- Single-family
- Multi-family
- Institutional

Commercial Areas

- Single and multi-tenant Commercial
- Single and multi-tenant Office

Industrial Areas

- Single and multi-tenant

Mixed-Use Areas

- Arterial and non-arterial frontage
- Single and multi-tenant sites

Downtown

- Single and multi-tenant sites

It also covers

- How signs are measured
- How signs are illuminated
- Internal illumination standards
- External illumination standards – downcast only
 - Other design considerations
- High quality
- Treatment of raceways and conduit
- Compatibility with site, architecture and

Electronic message centers (EMCs) would be allowed by right for gas stations, menu board signs, kiosks, all others have to justify use on the PUD.

Section 4 - Permanent Signs

Staff evaluated all current regulations, typical approved waiver requests, other regional communities' regulations and industry best practice. Section 4 includes regulation for all sign types in all areas of the City:

Residential areas – single family, multi-family, Institutional uses

Commercial areas – primary, secondary and US 36 frontages. Scale of development, slightly larger and more flexible locations, single tenant or multi-tenant and office categories.

Ritchie noted some proposed changes from the packet include increasing the size for US 36 oriented signs; flexibility for some sign types; and revised language allows illumination for window signs.

Ritchie stated minor changes to the downtown sign code include awning sign measurement and area; additional flexibility on canopy sign design; allowing any color halo light rather than white or yellow only; and excludes properties on the east side of the railroad tracks where the mixed use standards apply.

One substantial change would allow murals beyond downtown in commercial and mixed use areas, but not in residential areas.

Section 5 – Temporary Signs

Ritchie noted the City cannot regulate sign type based on the purpose of the sign, there are now types of signs; banners, site signs, yard signs and window signs with time, place and manner for those temporary signs. Sandwich board signs allowed in downtown but in other areas must stay on private property.

Councilmember Leh asked about the signs people put in the street concerning children at play. Ritchie noted technically those would not be allowed if they are on public property.

Ritchie stated staff did not draft new language for temporary signs, but that can be added if Council is interested.

Marijuana signs are addressed in the municipal code in Title 5 which requires signage to contain only the business name and trademark. City Council can require this as a compelling governmental interest.

Mayor Pro Tem Lipton stated the ordinance requires compliance with the sign code in anything that requires a building permit. He was concerned we are requiring businesses to upgrade their signs if they are pulling a permit for something completely different. He wanted to make sure a renovation would not trigger having to get a new sign. Director Zuccaro said the ordinance would not trigger that.

Mayor Pro Tem Lipton asked about how sandwich boards affect ADA compliance for sidewalk clearance. Ritchie noted the code is clear how much clearance is required so it then becomes an enforcement issue.

Mayor Pro Tem Lipton was concerned the use of the electronic message centers may be too restrictive. Ritchie stated in the early drafts more were allowed with certain restrictions. After feedback from Planning Commission, Business Retention and Development Committee and the Downtown Business Association staff felt it was too lenient to leave it as a use by right.

Councilmember Leh stated we are trying to balance the values of small town character with the rights of businesses and their first amendment rights. He noted complaints about signs are more numerous than we would want to admit. We get complaints about who is cited and who isn't so it is critical we are fair and consistent.

Councilmember Leh asked about the marijuana sign rules and if these are likely to be challenged. City Attorney Kelly stated these are in line with the state rules.

Councilmember Leh asked on the electronic message centers if the standard gives sufficient guidance for staff. Planner Ritchie noted there could be language similar to that used in the PUD waiver if Council preferred. Councilmember Leh said he was seeking clarity and noted the sign installation language could be clarified.

Councilmember Stolzmann stated the murals require a permit and she asked if Council would consider the permit not require a fee as a way to encourage public art.

Councilmember Stolzmann stated she understands “open house” real estate signs are not allowed on public property under the code. If we allow some we have to allow all. But she asked if Council would consider having a time window when signs could be placed in the right of way. Ritchie stated Council could craft language for allowances for certain times or days.

Councilmember Stolzmann asked how temporary signs in windows are enforced and how new rules are enforced. Director Zuccaro stated there will be a period of education for this with brochures and contacts with people followed by courtesy notices slowly getting to code enforcement issuing citations. What is important is that enforcement be done equally throughout the City.

Councilmember Stolzmann stated she supports the electronic message centers as written. She has gotten many comments on sandwich boards downtown but she currently supports the language to only allow them in front of businesses.

Councilmember Loo asked why it was determined not to regulate murals in a residential area. Ritchie stated there is current case law which could be problematic for the City to regulate these in residential uses.

Councilmember Loo asked about the number of murals allowed and if that meant all sides of a building. Ritchie noted that could be clarified to indicate not on a street facing facade.

Councilmember Loo asked about yard signs and asked that the political sign section be clarified. Director Zuccaro stated Council can limit the number of signs per property if it wants to.

Councilmember Maloney liked the electronic message and sandwich board regulations as written.

Councilmember Keany stated the electronic signs are fine as written if it keeps them from being distracting. He would like to see a limit on how many yard signs are allowed per property and suggested five per frontage.

Councilmember Leh asked if the City can impose that kind of restriction on this kind of speech. City Attorney Kelly suggested if Council wants to make a substantive change it should be run by the specialized legal counsel retained for this project.

Director Zuccaro noted all of the other temporary sign categories have a number limitation.

Public Comments

Jill Midgley, 3068 W. 11th Avenue, Broomfield, stated she is a real estate agent in town and she would like to have some ability to have open house signs on surrounding streets to point people to the house. She stated she needs signs to get people into the houses.

Alicia Miller, 827 Trail Ridge Drive, a real estate agent, stated limits for days and times would be fair but strategically placed directional signs are helpful and necessary for real estate. Window signs can be great and give a nice community feel.

Caleb Dickinson, 721 Grant Ave., stated it can be too strict if kids can't have a lemonade stand or the like. Sometimes the temporary signs are helpful and Council should consider some opportunity for them.

Elayne Oligschlaeger, 1021 Turnberry Cir, does business open houses twice a year and would like the ability to have temporary signs to get people to her house.

Councilmember Leh stated he would support some allowances for temporary signs. He asked staff bring to back a proposal.

Councilmember Leh asked for more clarity on the references to federal and state laws and the first amendment as well as the phrase about being more restrictive.

Councilmember Stolzmann stated currently signs are not allowed in the public right of way so what you see now is not allowed. The proposal is to keep that. She would support some amount of signage under certain rules. She supports the modification for the changes to US 36 facing signs.

Councilmember Loo stated allowing signs with certain rules will mean some will not comply and some will always break the rules and we don't have the ability to enforce that. This could encourage people to go nuts with signs in the right of way for the weekends and could detract from our natural areas. She noted she gets complaints about people who are already breaking the rules. Enforcement could be an issue if signs were allowed on certain days and times.

Councilmember Keany stated he is not in favor of allowing signs in rights of way as people will abuse it. There is a way for people to put out signs on private property, but

allowing them in the right of way is not a reasonable way to do this. There is a solution by allowing signs on private property.

Councilmember Keany suggested limiting the number of signs per yard and not to make it unlimited. There should be a reasonable limit set. Some members did not agree.

Mayor Muckle stated he supports an allowance for temporary signs under very specific rules. Councilmember Stolzmann stated it should be clear where signs could be allowed and maybe start very regulated and can open up if want to. Also she would like to know if the police department can enforce this. Councilmember Keany suggested limiting the number per business or intersection.

Councilmember Loo stated she supports not allowing in the public right of way. She supports it as written. Councilmember Maloney agreed.

Mayor Pro Tem Lipton would like suggestions from staff on how we might be able to address this for real estate agents.

Councilmember Leh would like some options to consider. Mayor Pro Tem Lipton agreed. He wondered if there was a way to have a pilot program

Members all supported the change to US 36 signs.

Councilmember Stolzmann asked if Council would consider charging no fee for mural permits. Councilmember Maloney stated we should charge enough for reimbursing staff time. Councilmember Stolzmann stated she would prefer no charge as a way to encourage art.

Mayor Pro Tem Lipton agreed with Councilmember Maloney, if it costs the City resources to review these and there should be a fee. It can be established through the fee schedule each year.

Councilmember Leh agreed with Councilmember Stolzmann that there should be no fee when there is already a first amendment issue here. He worries these regulations may be overly burdensome and hard to enforce.

Director Zuccaro stated one option is to make it a minimal fee that can be determined with the fee schedule. Members agreed to this.

Mayor Pro Tem Lipton asked about commercial yard signs and if there are any rules. Director Zuccaro stated off premise signs are not allowed; he added home occupation signs are not allowed. Staff will do more research.

Public Comments

Caleb Dickinson, 721 Grant, stated he understands the concerns about allowing use of the right of way and enforcement. He stated allowing it under a certain time frame is simply a time when there is no enforcement compared to the rest of the time. If you make it too complicated it will be hard to enforce.

Mayor Muckle moved to continue the item until October 15, Councilmember Keany second.

Voice vote: all in favor.

ORDINANCE NO. 1782, SERIES 2019 – AN ORDINANCE AMENDING TITLE 2 OF THE MUNICIPAL CODE TO ADDRESS MUNICIPAL CAMPAIGN VIOLATIONS AND COMPLAINTS – 2ND READING, PUBLIC HEARING (advertised *Daily Camera* 8/25/19)

City Attorney Kelly introduced the ordinance by title. Mayor Muckle opened the public hearing.

City Clerk Muth stated during the 2019 legislative session, the Colorado General Assembly enacted a bill amending the Fair Campaigns Practices Act (FCPA) to provide that any complaint arising out of a municipal campaign finance matter must be exclusively filed with the Clerk of the applicable municipality. As complaints were previously handled by the Secretary of State's Office, the City currently has no rules or process in place to handle such a complaint. The proposed ordinance would create a process for handling campaign finance complaints.

As drafted the ordinance includes the following:

- A process and timeline for a third party complaint to be filed with the City Clerk and a process whereby the City Clerk can file a complaint.
- A process for review of such a complaint
- The allowance for a complaint to be cured in a set timeframe
- If appropriate, a process and timeline for a hearing officer to hold an informal hearing on such a complaint and make a ruling
- The establishment of civil fines for not adhering to campaign finance rules, not to exceed \$999 for any one election cycle

Muth stated having clear and enforceable rules which all residents and candidates understand is imperative to the election process. Staff recommends approval of the ordinance.

Muth added if approved tonight, the ordinance will be in place prior to the first campaign finance reporting deadline for the 2019 election and would be used to address any 2019 FCPA complaints.

Councilmember Stolzmann asked how the fine not to exceed \$999 was determined. City Clerk Muth noted staff looked at a variety of rules from other municipalities. Generally the idea is you want to encourage people to run for office and not be overly concerned about the possibility of heavy fines if they make a mistake. This ordinance allows for all mistakes to be cured without a fine.

Public Comments – None

Councilmember Stolzmann wondered whether there should be some ability to allow the judge to impose jail time. Councilmember Leh proposed adding potential jail time of 364 days. Mayor Muckle also felt it was serious but was not supportive of jail time.

City Attorney Kelly reminded Council these hearings would not be in municipal court. If Council desires to have there be the possibility of jail time, the ordinance would need to be rewritten to be heard in the municipal court.

Councilmember Leh withdrew his suggestion of jail time. Mayor Pro Tem Lipton suggested removing the \$999 limit to allow the cumulative fine to go higher. Councilmember Maloney felt removing the limit made sense. There is already opportunity to remediate. It only goes higher if remediation is not done.

Mayor Muckle closed the public hearing.

Mayor Pro Tem Lipton moved to approve Ordinance No. 1782, Series 2019 as amended to remove the \$999 limit on the fine, Councilmember Stolzmann seconded.

Vote: Motion carried by unanimous roll call vote.

**DISCUSSION/DIRECTION – CITY MANAGER’S RECOMMENDED BUDGET FOR
2020, INCLUDING UPDATED CAPITAL IMPROVEMENTS PLAN FOR 2019-2024 &
UPDATED LONG-TERM FINANCIAL PLAN FOR 2019-2024 – SET PUBLIC HEARING
10/01/19**

Director Watson stated this is the first presentation of the budget, many more meetings with details to come. The 2020 budget was published in the biennial budget and this is a review of the proposed changes. This includes updated revenue estimates and assumptions, expenditure estimates and target, capital improvement plan, interfund transfer projects and long-term financial plan. The preliminary net assessed valuation for 2019 increased 8.3% over 2018 and sales tax revenue is projected at a 2% year-over-year growth in 2019 and 1.5% for both 2020 and 2021.

Director Watson reviewed expenditure estimates and targets including wage and benefit projections and proposed expenditure additions. He noted proposed changes to the Capital Improvements Plan which includes the June 4 budget amendment and some

other recommended increases and deletions. He added the interfund transfers have been updated based on the consumer price index.

He reviewed the long-term financial plan noting this budget keeps the fund balances above targets for the out years. He noted the golf course fund may need to be addressed as it is funding the operations but not the capital and renewals. This will need to be discussed in the budget process.

Mayor Pro Tem Lipton stated in general there appears to be a fundamental imbalance with revenues and expenses in the next few years and it is being covered by fund balances. It does not look sustainable. 2020 may be okay, but we cannot depend on this long term.

Councilmember Maloney agreed the expenses exceed revenue over the next six years. He would like to see a proposal to address this. The expenses need to be addressed.

Councilmember Maloney stated for the Rec Center he would like to see the Rec Fund pay for its own renewal and replacement. For golf he thinks the numbers look too high and they should be reviewed given the poor numbers early in this year.

Councilmember Maloney would like the 6-year staffing plan included in this discussion.

Councilmember Maloney noted large fund balances in the utility fund and felt there is a need to look at that and the rates.

Mayor Muckle stated the Finance Committee agreed to the conservative 1.5% sales tax projection but the Council should weigh in if they don't agree.

Mayor Muckle agreed with the need to see the six-year staffing plan. City Manager Balser stated at this point we are not considering additional staffing past 2020 due to budget constraints.

Mayor Muckle noted the recreation numbers look good, but we are still making the full transfer from the general fund. It would be great if by 2021 that is not needed.

Mayor Muckle suggested not asking for too much work on the long-term plan in the second year of the biennial budget. That should happen next year.

Mayor Pro Tem Lipton stated the 2021-22 budget might require a new budgeting process. He noted sales tax is likely to decline and the projections should be conservative. On the Rec Center he would like to see a reduction in the general fund contribution in future years but that will be a decision for future councils.

Councilmember Loo asked if the budget is predicated on the TABOR question concerning the recreation center tax passing. Director Watson stated yes.

Councilmember Stolzmann stated we need to adjust recurring expenditures this year to address exceeding revenues. We do have some large one-time expenditures we need to spend, but the rest should be addressed.

Councilmember Stolzmann stated the money in the utility fund is to fund a large project in 2026 and this balance shows the smoothing Council wanted in the rates.

Councilmember Stolzmann suggested three things she would like considered 1) targets for renewable energy which should be less than \$30K per year 2) a sign for LCC for summer concerts and 3) funding to update the fiscal model.

Mayor Muckle noted discussions will continue at future meetings.

CITY ATTORNEY'S REPORT

None.

COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS

Councilmember Stolzmann stated DRCOG will be having a discussion of Proposition CC which would work towards de-Brucing the state and would affect transportation funding. She would like Council discussion on this so she knows our position before their discussion.

ADJOURN

Members adjourned at 10:25 pm.

Robert P. Muckle, Mayor

Meredyth Muth, City Clerk